



16 SEP 2002

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In re Application of
BERNFELD, et al.
Application No.: 10/070,647
PUT No.: PCT/US00/24839
Int. Filing Date: 11 September 2000
Priority Date: 10 September 1999
Attorney Docket No.: 701039-048929
For:

DECISION ON PAPERS
UNDER 37 CFR 1.42

This is a decision on the papers filed in United States Patent and Trademark Office (USPTO) on 18 June 2002, which are being treated as a request for acknowledgment of status under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 11 September 2000, applicant filed the international application, which claimed a priority date of 10 September 1999. A Demand for international preliminary examination in which the United States was elected was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 March 2002.

On 08 March 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the requisite basic national fee; a translation of the international application into English and a First Preliminary Amendment. No oath or declaration of the inventors was included.

On 14 May 2002, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 18 June 2002, applicant filed the papers considered herein, specifically, a combined declaration and power of attorney executed by co-inventor Pyong Woo PARK and Audrey BERNFELD as executrix of the last will and testament of deceased co-inventor Merton BERNFELD.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."


The declaration filed 18 June 2002 is executed by Audrey BERNFIELD as executrix of the estate of Merton BERNFIELD and provides the executrix's residence, post office address and country of citizenship. In addition, the declaration provides the residence, post office address and country of citizenship of the deceased co-inventor. The declaration is acceptable under 37 CFR 1.42 and complies with 37 CFR 1.497(a)-(b). Accordingly, the requirements for entry into national stage under 35 U.S.C. 371(c) were completed as of 18 June 2002.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **GRANTED**.

This application will be given an international application filing date of 11 September 2000 and a date of **18 June 2001** under 35 U.S.C. 371.

This application is being returned to the DO/EO/US for processing in accordance with this decision.



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